

Withholding Exemption Certificate for Real Estate Sales (For use by sellers of California real estate)

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590-RE

File this form with your withholding agent or buyer.

Withholding agent's name

Seller's name

Seller's address (number and street)

Seller's daytime telephone number

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City

State

ZIP code

Read the following carefully and check the box that applies to the seller:

☐ **Certificate of Residency — Individuals:**

I am a resident of California and I reside at the address shown above. See Side 2 for the definition of a resident.

☐ **Certificate of Principal Residence — Individuals:**The California real property located at _____
qualifies as my principal residence within the meaning of the California Revenue and Taxation Code Section 17152. See
Side 2 for the definition of a principal residence.☐ **Corporations:**The above-named corporation has a permanent place of business in California at the address shown above or is qualified
to do business in California. See Side 2 for the definition of permanent place of business.☐ **Partnerships:**The above-named entity is a partnership and the recorded title to the property is in the name of the partnership. The
partnership will file a California return to report the sale and will withhold on foreign and domestic nonresident partners
as required. Get FTB Publication 1017, Nonresident Withholding — Partnership Guidelines, for more information.☐ **Limited Liability Companies (LLCs):**The above-named entity is an LLC and the recorded title to the property is in the name of the LLC. The LLC will file a
California return to report the sale and will withhold on foreign and domestic nonresident members as required. Get FTB
Publication 1017, Nonresident Withholding — Partnership Guidelines, for more information.☐ **Tax-Exempt Entities and Nonprofit Organizations:**

The above-named entity is exempt from tax under California or federal law.

☐ **Irrevocable Trusts:**At least one trustee of the above-named irrevocable trust is a California resident. The trust will file a California fiduciary
return reporting the sale and will withhold when distributing California source income to nonresident beneficiaries.☐ **Certificate of Residency of Deceased Person — Estates:**I am the executor of the above-named person's estate. The decedent was a California resident at the time of death. The
estate will file a California fiduciary return reporting the sale and will withhold when distributing California source income to
nonresident beneficiaries.☐ **Bank:**

The above-named entity is a bank or a bank acting as a fiduciary for a trust.

CERTIFICATE: Please complete and sign below.Under penalties of perjury, I hereby certify that the information provided herein is, to the best of my knowledge, true and correct. If condi-
tions change, I will promptly inform the withholding agent.

Seller's name and title (type or print) _____

Seller's ☐ Social security number ☐ California corporation number or ☐ FEIN

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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(NOTE: Failure to provide your identification number will render this certificate void.)

Seller's signature _____ Date _____

For Privacy Act Notice, see form FTB 1131 (individuals only).

Instructions for Form 590-RE

Withholding Exemption Certificate for Real Estate Sales

Reference in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 1997**, and to the California Revenue and Taxation Code (R&TC).

General Information

A Purpose

Use Form 590-RE to obtain an exemption from withholding for the sale of California real estate. The completed Form 590-RE should be presented to the buyer or other withholding agent and retained for a period of five years following the close of the transaction. The buyer will be relieved of the withholding requirements if the buyer relies in good faith on a completed and signed Form 590-RE.

B Law

The R&TC Section 18662 requires withholding of income (or franchise) tax when California real estate is sold by a nonresident unless you meet a withholding exception or obtain a waiver of withholding. A waiver or reduced withholding amount may be allowed if you can show that the required withholding will exceed the estimated California tax due or that not all the sellers are nonresidents of California. Get Form 597-A, Nonresident Withholding Waiver Request for Real Estate Sales, for more information.

C When To Use This Form

The certifications on Side 1 should be completed when:

- **The seller is a California resident on the date escrow closes.** A resident of California who has an out-of-state address to which funds are disbursed will need to complete Form 590-RE to be exempt from withholding. Form 590-RE remains valid if the seller moves out of California after the close of escrow.
- **The property meets the definition of principal residence under R&TC Section 17152 at the time escrow closes.** Due to California legislation enacted in 1997, California law is the same as federal law (under the Taxpayer Relief Act of 1997 [Public Law 105-34]) regarding exclusion of gain from the sale of a principal residence for sales occurring on or after May 7, 1997.
- **The seller is a corporation that has a permanent place of business in California immediately after the transfer.**
- **The seller is a partnership and the recorded title to the property is in the name of the partnership.** A partnership includes a syndicate, group pool, joint venture or other unincorporated organization through which the business operation is carried on and which is not a corporation, trust or estate (R&TC Section 17008). A partnership may be required to withhold on distributions of California source income to nonresident partners. For more information get FTB Pub. 1017, Nonresident Withholding — Partnership Guidelines.
- **The seller is a Limited Liability Company (LLC) and the recorded title to the property is in the name of the LLC.** An LLC may be required to withhold on distributions of California source income to nonresident members. For more information get FTB Pub. 1017.

- **The seller is exempt from tax under either California or federal law.** For withholding purposes, this includes insurance companies, IRAs and pension and profit sharing plans.
- **The seller is a California trust.** For withholding purposes, an irrevocable trust is considered a California trust if at least one trustee is a California resident. Irrevocable trusts are required to withhold on distributions of California source income to their nonresident beneficiaries.
Note: The grantor of a revocable/grantor trust shall be treated as the seller of real estate owned by such a trust for withholding purposes. Therefore, if the seller is a revocable/grantor trust and one or more of the grantors is a nonresident, withholding is required. If all of the grantors of a revocable/grantor trust are residents of California, no withholding is required. Resident grantors should check the box on Side 1 labeled "Certificate of Residency — Individuals."
- **The seller is a California estate.** For withholding purposes, an estate is considered a California estate if the decedent was a California resident at the time of death. Estates are required to withhold on distributions of California source income to their nonresident beneficiaries.
- **The seller is a bank or a bank acting as a fiduciary for a trust.**

D Requirement to File a California Return

A completed Form 590-RE relieves the buyer of the requirement to withhold but does not eliminate the requirement that the seller must file a California tax return and pay the tax due.

E Who is a Resident

A California resident is any individual who is in California for other than a temporary or transitory purpose or any individual domiciled in California who is absent for a temporary or transitory purpose.

An individual domiciled in California who is absent from California for an uninterrupted period of at least 546 consecutive days under an employment-related contract is considered outside California for other than a temporary or transitory purpose. This does not apply if an individual has income from stocks, bonds, notes or other intangible personal property in excess of \$200,000 in any taxable year in which the employment-related contract is in effect.

A spouse who is absent from California for an uninterrupted period of at least 546 days to accompany a spouse who is under an employment-related contract is also considered outside of California for other than a temporary or transitory purpose.

Sellers who are uncertain of their residency status can get assistance in determining their residency status by calling the Franchise Tax Board, Taxpayer Services Center, at the numbers listed in I, Additional Information.

F What is a Principal Residence

Usually, the home in which you live is your principal residence. If you have more than one home, only the sale of your main home qualifies as a sale of a principal residence. If you have two homes and live in both of them, the main home is the one lived in most of the time. A mobile home, a boat on which the seller lived, cooperative apartment, or condominium can also be a principal residence.

You should evaluate your factual situation, the law, and applicable federal case law to determine if the property qualifies as your principal residence. For more information, get federal Pub. 523, Selling Your Home.

G What is Not a Principal Residence

The following are **not** principal residences:

1. Rental property;
2. Part of home used for business;
3. Vacant land; or
4. Vacation home or second home.

H What is a Permanent Place of Business

A corporation has a permanent place of business in California if it is organized and existing under the laws of California or if it is a foreign corporation qualified to transact intrastate business by the California Secretary of State's Office. A corporation that has not qualified to transact intrastate business such as a corporation engaged exclusively in interstate commerce will be considered as having a permanent place of business in California only if it maintains a permanent office in California and the office is permanently staffed by its employees.

I Additional Information

For more information about withholding contact:

WITHHOLD-AT-SOURCE SECTION
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651
Telephone: (916) 845-4900
FAX: (916) 845-4831

For more information about residency or other topics call:

From within the
United States 1-800-852-5711
From outside the United States,
(not toll-free) 1-916-845-6500
For hearing impaired
with TDD 1-800-822-6268

Sellers may also get FTB Pub. 1031, Guidelines for Determining Resident Status, for more information.